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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

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In re I.P., a Person Coming Under the Juvenile Court  
Law.

C084571

THE PEOPLE,

(Super. Ct. No. JV137763)

Plaintiff and Respondent,

v.

I.P.,

Defendant and Appellant.

Following a contested hearing, the juvenile court sustained a delinquency petition brought pursuant to Welfare & Institutions Code section 602,<sup>1</sup> finding that the minor I.P. committed robbery against a victim over the age of 65. (Pen. Code, §§ 211, 667.9, subd. (a).) The juvenile court declared the minor a ward of the court and placed him on probation in his mother's custody, subject to 141 days in juvenile hall with 141 days of predisposition credit. The juvenile court did not set a maximum term of confinement.

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

The minor now contends (1) the juvenile court erred in failing to set a maximum term of confinement, (2) it should have awarded two more days of predisposition credit, and (3) the dispositional order must be corrected because the minor did not plead to the offense. We conclude the trial court was not required to set a maximum term of confinement because the minor was not removed from parental custody. But we will modify the judgment to increase the award of predisposition credit and affirm the judgment as modified. We will also direct the juvenile court to correct the disposition order to indicate that the petition was sustained following a contested hearing.

## DISCUSSION

### I

The minor contends the imposition of a 141-day term in juvenile hall required the juvenile court to set a maximum term of confinement.

Section 726, subdivision (d)(1) provides: “If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.” Section 726, subdivision (d)(5) provides that physical confinement means “placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Justice.”

When a minor is not removed from the physical custody of his or her parent or custodian as a result of criminal violations sustained under section 602, section 726, subdivision (d) does not apply and the juvenile court is without authority to set a maximum term of confinement. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 541; *In re Ali A.* (2006) 139 Cal.App.4th 569, 571 [“When a juvenile ward is allowed to remain

in his parents' custody, there is no physical confinement and therefore no need to set a maximum term of confinement"]], overruled on another ground in *In re A.C.* (2014) 224 Cal.App.4th 590, 592.) Here, the juvenile court imposed a 141-day term in juvenile hall and awarded 141 days of predisposition credit, which meant the minor was not required to spend any time out of his mother's custody after the disposition hearing.

*In re P.A.* (2012) 211 Cal.App.4th 23 is illustrative. In that case the juvenile court sustained allegations of felony resisting arrest and misdemeanor resisting arrest. (*Id.* at p. 27.) At the jurisdiction hearing, the juvenile court informed the minor that his maximum term of confinement was three years for the felony and four months for the misdemeanor. (*Id.* at pp. 29-30.) But at the disposition hearing, the juvenile court reduced the felony count to a misdemeanor and placed the minor on probation subject to two days in juvenile hall with two days of credit. (*Id.* at p. 27.) Although the minor sought to strike the maximum term referenced at the jurisdiction hearing because he had not been removed from his parents (*id.* at p. 30), the court of appeal concluded the comment made at the jurisdiction hearing was of no consequence (*id.* at p. 32) and the juvenile court was correct in declining to set a term of confinement at the disposition hearing because it continued the minor in his parents' custody (*ibid.*).

Here, like in *In re P.A.*, *supra*, 211 Cal.App.4th 23, the juvenile court did not err by not setting a maximum term of confinement.

## II

The juvenile court awarded 141 days of predisposition credit, but the minor contends he was entitled to 143 days of credit. The Attorney General agrees and so do we.

The minor was first placed in juvenile hall on January 14, 2016 and released on electronic monitoring on March 28, 2016. He was entitled to 75 days for that time. The minor was next placed in juvenile hall on June 28, 2016, and he was released on electronic monitoring on June 29, 2016. He was entitled to two days of credit for that

time. The minor was next placed in juvenile hall from July 20, 2016, to September 23, 2016, entitling him to 66 days of credit. The total adds up to 143 days, not 141 days. We will modify the judgment to increase the award of predisposition credit by two days.

### III

Although the disposition order indicates the minor entered a plea in which he admitted the allegations in the petition, the parties agree the statement in the disposition order is incorrect. Instead, the juvenile court sustained the petition after a contested hearing. We will direct the juvenile court to correct the disposition order.

### DISPOSITION

The judgment is modified to award the minor 143 days of predisposition credit. As modified, the judgment is affirmed. The juvenile court is directed to prepare an amended and corrected juvenile detention disposition report reflecting the judgment as modified and indicating that the petition was sustained following a contested hearing.

/S/  
MAURO, Acting P. J.

We concur:

/S/  
DUARTE, J.

/S/  
RENNER, J.